

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

**PETITION OF MONTROSE MUTUAL TELEPHONE COMPANY FOR WAIVER**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”), Montrose Mutual Telephone Company (“Montrose”) (SAC-341058) hereby requests a waiver of 47 C.F.R. Section 54.311 or any relevant rule, practice, policy, or order that would preclude the acceptance of Montrose’s voluntary election letter to adopt the ACAM model-based support mechanism. As explained herein, Petitioner seeks to have its voluntary Election Letter to opt into the ACAM model-based support (as specified in the Alternative Connect Cost Model (A-CAM v2.3 – Report 7.0 released on August 3, 2016) accepted by the Commission as it was timely sent but inadvertently addressed to an incorrect FCC email address.

Montrose submitted its election letter via an email to the Wireline Competition Bureau (“Bureau”) on Friday, October 28, 2016 – four days prior to the Bureau’s deadline of November 1, 2016 for acceptance of the model-based support. Although the election letter properly stated that the submission was done via email submission at “ConnectAmerica@fcc.gov” it was inadvertently submitted to “ConnectAmerica@fcc.org.” Montrose received no error message or bounce back message informing it that the election letter was could not be delivered, and Montrose believed that it had timely submitted the election letter to the Bureau for the adoption of the model-based support. Montrose was not aware of its inadvertent misfiling until after the

Bureau released its Public Notice on November 2, 2016, which identified the companies that had elected the model-based support.<sup>1</sup>

### **Legal and Procedural Background**

The Commission may waive its rules for good cause shown pursuant to 47 C. F. R. § 1.3. Further, the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). Moreover, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969)(*WAIT Radio*), cert. denied, 409 U. S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

Rule 54.311(a) does address the “Connect America Fund Alternative Connect America Cost Model Support” and specifies that carriers can voluntarily elect to receive model-based support and that a carrier not electing the model-based support will continue to receive support under existing high cost support mechanisms. The rule, itself, does not specifically deal with the timing of the voluntary election process. Instead, the Commission’s March 30, 2016 Order in which Rule 54.311 was adopted specifies, in paragraphs 64 through 69, that carriers should submit letters signed by an officer of the company containing the required election confirmation along with service obligation commitments to the Bureau at [ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov), and that any carrier that fails to submit an election letter within 90 days (November 1) will be deemed to have declined the model-based support.<sup>2</sup>

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<sup>1</sup>Public Notice, *Wireline Competition Bureau Announces Results of Rate-Of-Return Carriers That Accepted Offer of Model Support*, WC Docket No. 10-90, DA 16-1246, released November 2, 2016.

<sup>2</sup> *In the Matter of Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90 and 14-58 and CC Docket No. 01-92, FCC 16-33, released March 30, 2016.

### **MONTROSE'S ELECTION LETTER SHOULD BE ACCEPTED**

As previously noted, Montrose made an affirmative voluntary election to accept the model-based support and submitted its properly prepared and signed election letter on October 28, 2016, four days prior to the November 1 deadline set by the Commission's Order, but inadvertently sent the election letter via email submission to [ConnectAmerica@fcc.org](mailto:ConnectAmerica@fcc.org) – and that FCC email address was an incorrect address with the wrong domain.

The error in the email address was not noticed by Montrose and the company received no error message or bounce back message informing it that the election letter was could not be delivered. Montrose believed that it had timely submitted the election letter to the Bureau for the voluntary adoption of the model-based support. Montrose was not aware of its inadvertent misfiling until after the Bureau released its Public Notice on November 2, 2016, which identified the companies that had electing the model-based support. Montrose immediately sought to resubmit the election letter to the proper email address on November 3, 2016. However, Montrose was informed that the letter could not be accepted as timely filed since it was past the due date.

### **Good Cause Exists For The Waivers To Be Granted**

Good cause exists for Montrose's requested waiver of Sections 54.311 or any relevant rule, practice, policy, or order that would preclude the acceptance of Montrose's election letter. The public interest would be served by waiving the applicable rules under the special circumstances described herein because strict compliance of the due date where Montrose made a voluntary election to adopt the model-based support prior to the deadline to submit the election but inadvertently submitted the election to an incorrect FCC address would be inconsistent with the public interest.

In addition, not accepting Montrose's voluntary election because it was inadvertently submitted to an incorrect FCC email address would impose an undue hardship on Montrose because the company has expended significant effort and undergone considerable engineering to review and voluntarily adopt the model-based support to prepare for the long term project. Further, considering the effort and expense that Montrose has undergone to evaluate and voluntarily elect to adopt the model-based support, and the overall importance of the company's selection of which path of support the company will take for many years to come in the future, it would be inequitable to not accept Montrose's voluntary election letter to adopt the model-based support because it was inadvertently submitted to an incorrect FCC email address.

Granting a waiver for Montrose and allowing for the acceptance of Montrose's voluntary election to adopt the model-based support would benefit the public interest and would lead to an effective implementation of overall policy. First, it would foster effective use of the ACAM model-based support by Montrose which the Commission has been developing for well over a year and encouraging companies to voluntarily consider using it as a support mechanism. Second, Montrose made a voluntary election to adopt the model-based support prior to the November 1, 2016 deadline and submitted it to the FCC albeit via an inadvertent FCC email address. Although the model-based support mechanism is currently over-subscribed, the inclusion of Montrose's \$1,846,538 annual amount into the model-based support mechanism will not significantly impact the overall Universal Service Fund, the model-based support mechanism, the other companies that elected model-based support, or the companies remaining on the legacy rate-of-return support mechanism. Finally, since the Bureau is currently accepting comments until November 14, 2016 on how to address the ACAM over-subscription issue,

prompt inclusion of Montrose in the group of companies electing the model-based support path will not delay the Commission's implementation of the ACAM model-based support mechanism.

**Conclusion**

Montrose requests a waiver of any applicable rule, practice, policy, or order that precludes the acceptance of Montrose's voluntary election letter to adopt the model-based support because good cause has been shown for a waiver, and asks that Montrose's election letter be accepted by the Commission and that the company be allowed to participate in the model-based support mechanism.

Respectfully submitted,

**Montrose Mutual Telephone Company**

A handwritten signature in dark ink, appearing to read "George P. Tays". The signature is written in a cursive, flowing style.

George P. Tays  
General Manager

## ATTACHMENTS

**From:** [geot@mmtcnet.com](mailto:geot@mmtcnet.com) [mailto:[geot@mmtcnet.com](mailto:geot@mmtcnet.com)]  
**Sent:** Friday, October 28, 2016 12:40 PM  
**To:** [ConnectAmerica@fcc.org](mailto:ConnectAmerica@fcc.org)  
**Subject:** Model-Based Support Election  
**Importance:** High

Please see attached letter.

George P. Tays, Sec/Treas/GM  
Respond Comm., Inc.  
102 N. Main St., PO Box 4  
Dieterich, Il. 62424  
217-925-5242



October 19, 2016

VIA EMAIL SUBMISSION  
at ConnectAmerica@fcc.gov

Wireline Competition Bureau  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: Election of Model-Based Support

I am the General Manager and an officer for Montrose Mutual Telephone Company ("Montrose Mutual"), SAC-341058. Montrose Mutual hereby elects model-based support in the amount of \$1,846,538 per year for ten years for the state of Illinois as announced in the Wireline Competition Bureau's Public Notice (DA 16-869) and specified in the Alternative Connect America Cost Model (A-CAM v2.3 - Report 7.0) released on August 3, 2016.

Montrose Mutual commits to satisfy the specific service obligations associated with the amount of model-based support. Montrose Mutual also commits to continue to comply with all Commission rules related to High Cost Support as required for the reporting and compliance of the program.

If you have any questions, I may be contacted at (217) 925-5242.

Sincerely,

George P. Tays  
General Manager

**From:** Alexander Minard [<mailto:Alexander.Minard@fcc.gov>]  
**Sent:** Thursday, November 03, 2016 3:15 PM  
**To:** [geot@mmtcnet.com](mailto:geot@mmtcnet.com)  
**Subject:** RE: Model-Based Support Election

George - The Bureau cannot accept this letter as timely filed because it was not received by the Bureau on or before November 1. **Parties can always file a petition for waiver of the Commission's rules per 47 CFR 1.3 if they choose.**

Thanks,  
Alex

**From:** [geot@mmtcnet.com](mailto:geot@mmtcnet.com) [<mailto:geot@mmtcnet.com>]  
**Sent:** Thursday, November 03, 2016 1:43 PM  
**To:** ConnectAmerica <[ConnectAmerica@fcc.gov](mailto:ConnectAmerica@fcc.gov)>  
**Subject:** Fw: Model-Based Support Election

To whom it may concern;

It was just brought to my attention that our companies name was not on the list of companies electing the Model. It was our intention to do so and I sent the letter on 10/28/16. Please see attached. On exploring the problem I found that I inadvertently sent the email to [ConnectAmerica@fcc.org](mailto:ConnectAmerica@fcc.org). I checked and the email did not bounce back that I can see. I would asked that you include our company since we have already done considerable engineering for the long-term project.

Sincerely,

George Tays, Sec/Treas/GM  
Montrose Mutual Telephone Co.  
Dieterich II. 62424  
217-925-5242



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)